

Notice of Allowability

Application No.

08/982,272

Applicant(s)

KIPPS ET AL.

Examiner

Phillip Gambel

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/30/04, 5/3/04, 9/29/04
2. ☒ The allowed claim(s) is/are 87, 93-95, 97-100, 111, 113, 116, 141-144 RE NUMBERED 1-15
3. ☒ The drawings filed on 9/25/03 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

PHILLIP GAMBEL
Phillip Gambel
Primary Examiner
Art Unit: 1644
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1/19/05

Art Unit: 1644

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 3/30/04 has been entered.

Applicant's amendment, filed 3/30/04, is acknowledged.

Applicant's amendment, filed 5/3/04, is acknowledged

Applicant's amendment, filed 9/29/04, is acknowledged

Claims 1-10, 67, 83-86, 88-92, 96, 101-110, 112, 114, 115 and 117-140 have been canceled.
Claims 87, 93-95, 97-100, 111, 113 and 116 have been amended

Claims 11-66, 68-82, 87, 93-95, 97-100, 111, 113, 116 and 141-144 are pending.

Claims 11-66 and 68-82 have been withdrawn from consideration as being drawn to non-elected inventions.

EXAMINER'S AMENDMENT

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

3. Authorization for this Examiner's Amendment was given in a telephone interview with Stacy Taylor on 1/19/05.

4. See Listing of Claims of as an Attachment to this Office Action.

5. The Title has been replace with the following:

-- METHODS OF EXPRESSING CHIMERIC MOUSE AND HUMAN CD40 LIGAND IN HUMAN CD40+ CELLS --

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REASONS FOR ALLOWANCE

6. The following is an Examiner's Statement of Reasons for Allowance:

As indicated previously, it appears that there was insufficient motivation to incorporate the combination of both mouse and human CD40L elements as a chimeric CD40L into human CD40 expressing cells, including CLL cells at the time the invention was made. The instant claims appear free of the prior art. Accordingly, the pending claims are deemed allowable.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (571) 272-0844. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841.

The fax number for the organization where this application or proceeding is assigned is 571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phillip Gambel, PhD.
Primary Examiner
Technology Center 1600
January 19, 2005

Examiner's Amendment to the Claims:

This listing of claims replaces all prior versions and listings of claims in the application:

Listing of Claims:

1 -86. (Cancelled)

87. (Amended) A method for expressing a chimeric CD40 ligand in a CD40+ CD40+ human cell, wherein the chimeric CD40 ligand includes one or more human CD40 ligand domains ~~derived from a human CD40 ligand gene~~ and one or more mouse CD40 ligand domains ~~derived from a mouse CD40 ligand gene~~, the method comprising introducing a chimeric polynucleotide a chimeric polynucleotide encoding the chimeric CD40 ligand into the cell.

88-92. (Cancelled)

93. (Amended) The method of claim 87 wherein the mouse CD40 ligand domain comprises an extracellular CD40 ligand domain.

94. (Previously Presented) The method of claim 87 wherein the mouse CD40 ligand domain comprises Domain III of the mouse CD40 ligand.

95. (Amended) The method of claim 93 wherein the extracellular CD40 ligand domain consists of Domain IV.

96. (Cancelled)

97. (Amended) The method of claim 87 wherein the mouse CD40 ligand domain consists of Domain I of the mouse CD40 ligand.

98. (Amended) The method of claim 87 wherein the mouse CD40 ligand domain consists of Domain II of the mouse CD40 ligand.

99. (Previously Presented) The method of claim 87 wherein the chimeric polynucleotide consists of the nucleic acid sequence of SEQ ID NO: 3.

100. (Previously Presented) The method of claim 87 wherein the chimeric polynucleotide consists of the nucleic acid sequence of SEQ ID NO: 20.

101 – 110. (Cancelled)

111. (Amended) The method of claim 87, wherein the human ~~CD40+~~ CD40+ cell comprises a neoplastic cell.

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112. (Cancelled)

113. (Previously Presented) The method of claim 111, wherein the neoplastic cell comprises a neoplastic B cell.

114 – 115. (Cancelled)

116. (Previously Presented) The method of claim 111 wherein the neoplastic cell comprises a neoplastic T cell.

117 – 140. (Cancelled)

141. (Previously Presented) The method of claim 87 wherein the chimeric polynucleotide consists of nucleic acid sequence of SEQ ID NO: 4.

142. (Previously Presented) The method of claim 87 wherein the chimeric polynucleotide consists of nucleic acid sequence of SEQ ID NO: 5.

143. (Previously Presented) The method of claim 87 wherein the chimeric polynucleotide consists of nucleic acid sequence of SEQ ID NO: 6.

144. (Previously Presented) The method of claim 87 wherein the chimeric polynucleotide consists of nucleic acid sequence of SEQ ID NO: 7.